



# Department of Justice

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Western District of Kentucky

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**FORMER RADIO PERSONALITY TODD SMITH (KELLY) PLEADS GUILTY TO  
MAIL FRAUD, WIRE FRAUD AND MONEY LAUNDERING**

*– Agrees to a guideline sentence of 7 years*

*– Smith fraudulently claimed to have ALS and Cancer and to be raising money for a cure*

LOUISVILLE, KY -Todd Edward Smith, age 37, of Jefferson County, pled guilty to federal mail fraud, wire fraud, and money laundering, U.S. Attorney David L. Huber of the Western District of Kentucky announced today.

Under the Plea Agreement with the United States, Smith, a/k/a Kelly, agrees to a minimum sentence of 7 years. Smith also agrees to restitution of \$74,270. There is no parole in the federal system, and restitution is mandatory. It was further agreed by the Defendant that the United States could prove through Smith's statements a loss of over \$120,000. The maximum penalty allowed by law for the offenses which Smith pled guilty to is 80 years imprisonment, a \$1,000,000 fine, and not more than 3 years of supervised release following imprisonment. However, the law does not set a minimum penalty which must be imposed, leaving the sentencing court with the option of probation. As in all federal cases, the court must consider, but is not bound by, the Federal sentencing guidelines when imposing a sentence in this case. Those guidelines call for a term of imprisonment consistent with that agreed upon in the plea agreement.

United States Attorney Huber hailed this prosecution as an outstanding example of

cooperation between State-Federal law enforcement. “I want to thank Commonwealth Attorney David Stengel and his staff, especially Assistant Commonwealth Attorney Todd Lewis, for their prosecutive efforts against this community fraud. Their work cannot be understated. Truly, without the close working efforts of our offices, we may not have achieved this agreement for a sentence of at least seven years.”

U.S. Attorney Huber noted the community impact of this crime:

- The Greater Louisville Area is a very civic-minded community.
- The people of Greater Louisville donate many hours and dollars to civic and charitable activities.
- Defendant Todd “Kelly” Smith took advantage of the generosity of the entire community.
- He used his radio personality opportunity to lie to this community about his personal health condition and wasted literally tens of thousands of dollars that could have gone to legitimate charities, including the cure for Lou Gehrig’s Disease.

#### Plea Agreement Facts

Smith admitted that between January 1, 2001, and April 30, 2006, he used the United States mail and interstate wires, including phone lines, television and radio broadcasts, and the internet, to perpetrate a scheme to defraud hundreds of donors of thousands of dollars. Smith admitted that in 2001, he fraudulently announced to family, friends and coworkers that he had been diagnosed with Amyotrophic Lateral Sclerosis (ALS), also known as Lou Gehrig’s disease, and that doctors had told him he had three to five years to live. Smith admitted that he never had ALS. Smith also admitted that he never had cancer, despite his claim in 2004 that in addition to ALS he suffered from bone cancer, and that he might lose both of his legs.

Smith further admitted that in 2002, he established the Todd Kelly Foundation, purportedly to raise money for ALS research. On its website, the Todd Kelly Foundation stated:

“by making a tax deductible donation to the Todd Kelly Foundation-ALS Research, you are directly funding the ground-breaking research that will one day provide treatments and a cure for this devastating disease,” and “OVER 80 CENTS OF EVERY DOLLAR YOU GIVE GOES STRAIGHT TO SCIENTIFIC RESEARCH. We promise that your donation will be used wisely and effectively.”

Over the next several years, Smith admitted that he held various fund raising events to generate funds for the Foundation. Smith solicited and received thousands of dollars in donations from hundreds of donors by interstate wire and United States mail. These fund raisers were often advertised on both television and radio broadcasts, in the internet, and through email and regular mail. Throughout the various fund-raising events, Smith continued to fraudulently assert that he suffered from ALS and frequently sent emails and letters updating potential donors on his alleged medical condition.

Smith admitted that contrary to the representations on its website, no Foundation funds were contributed to ALS research. Rather, Smith admitted that he used Todd Kelly Foundation funds to pay for thousands of dollars of his own personal expenses, including car payments, car insurance payments, cable and telephone bills, meals at restaurants, limousines, vacations, and alcohol.

Smith also admitted that in addition to the fund raisers held on behalf of the Todd Kelly Foundation, fund raisers were also held to benefit Smith directly, to offset his alleged medical expenses that were uncovered by insurance. These events raised thousands of dollars in additional donations, paid directly to Smith. Smith admitted he had no such medical expenses.

The case was prosecuted by Assistant United States Attorneys David Weiser and Ann Claire Phillips, and it was investigated by the Federal Bureau of Investigation and the Kentucky State Police.

The plea was entered before Dave Whalin, Magistrate Judge, United States District Court, Louisville, Kentucky.

Smith is scheduled to be sentenced before Judge Joseph H. McKinley, Jr., on December 10, 2007, at 11:00 a.m., in Louisville, Kentucky.

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